

## TOWN COUNCIL STAFF REPORT

Title: Consider adoption of an urgency ordinance making amendments to the Municipal Code to implement Senate Bill 9 related to urban lot splits and two-unit projects.

Meeting Date: January 19, 2022

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### **RECOMMENDATION:**

Read by title only and adopt the urgency ordinance making amendments to the Municipal Code to implement Senate Bill 9 related to urban lot splits and two-unit projects.

### **BACKGROUND:**

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9), which requires all local agencies to consider certain proposed two-unit projects and lot splits ministerially and allows residential property owners to split a single-family lot into two lots (referred to below as an Urban Lot Split) and place up to two units on each (referred to below as a Two-Unit Project).<sup>1</sup> An SB 9 lot split followed by an SB 9 two-unit project on each of the two new lots would result in four total dwellings on what was formerly one single-family residential lot—all with only ministerial approval. The law imposes only a handful of restrictions and allows local governments to impose a few more. The purpose of these proposed amendments is to allow the Town to implement the necessary objective subdivision and design standards.<sup>2</sup> SB 9 went into effect on January 1, 2022.

Because SB 9 was not signed into law until September 2021, staff is recommending adoption of the new subdivision ordinance as an urgency ordinance pursuant to Government Code section 36937(b). Ordinances adopted pursuant to section 36937(b) are effective immediately and this will enable the Town to have an adopted ordinance in place immediately to prevent any negative impacts from not having adopted regulations in place; however the approval requires adoption by a four-fifths (4/5) vote. The traditional ordinance adoption process requires more time than was provided by the State's September timeframe and January 1 start date. However, staff believes it is important to have the subdivision framework in effect as soon as possible after the January 1<sup>st</sup> start date in order to implement the necessary objective subdivision and design standards and to approve a required lot split and/or development should an SB 9 application be submitted.

The attached ordinance proposes the minimum objective size and design standards set forth by SB 9, in addition to a few Mammoth-specific requirements. Due to the shortened timeframe associated with SB 9, staff has recommended a framework that addresses the

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<sup>1</sup> The full text of SB 9 is available here:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB9](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9)

<sup>2</sup> Objective design standards are quantifiable standards that do not rely on interpretation or professional experience.

fundamental requirements of approving a residential subdivision or a small, two-unit development project. Following adoption of the urgency ordinance, staff anticipates returning to Council at a later date with a fully developed ordinance that has greater input from local special districts/utility providers, community partners and stakeholders, and incorporates any clean-up legislation put forth by the State. This subsequent adoption process will occur through the Town’s standard timeframe and will allow for additional public input, Planning and Economic Development Commission review, and a 30-day referendum period following the second reading of the ordinance.

## **SB 9 FRAMEWORK OVERVIEW (PROPOSED AMENDMENTS)**

The following is an overview of the main elements of SB 9. The proposed urgency ordinance incorporates all of these required elements; however, it also includes greater detail on what is required in Mammoth Lakes to complete an urban lot split and/or two-unit project.

### **Maximum Number of Units Allowed Under SB 9**

In single-family residential zones:	<b>Detached:</b> Primary units are detached from each other	<b>Attached:</b> Primary units are attached to each other.
<b>Split.</b> On each of the two lots that are formed by an urban lot split.	<b>4:</b> Two “units” of <b>any kind</b> on <b>each lot</b> (“units” can be an original main house, new primary unit or units under SB 9, ADU, JADU)	<b>4:</b> Two “units” of <b>any kind</b> on <b>each lot</b> (“units” can be an original main house, new primary unit or units under SB 9, ADU, JADU)
<b>Not Split.</b> On a lot that was <b>not</b> formed by an SB 9 lot split.	<b>4:</b> [ <b>Two</b> primary dwellings (original or SB 9)] + [ <b>one</b> detached ADU] + [ <b>one</b> JADU]*  <i>Applying SFR ADU rules</i>  * For just one of the primary dwellings, but not both.	<b>5:</b> [ <b>Two</b> primary dwellings (original or SB 9)] + [ <b>one</b> converted ADU] + [ <b>two</b> detached ADUs]  <i>Applying MFR ADU rules</i>

### **Urban Lot Splits + Two-Unit Projects** (By-Right)

Under SB 9, local agencies are required to:

- ministerially approve certain subdivisions of one lot into two without discretionary review or a public hearing; and/or
- ministerially approve a proposed two-unit development project on a lot in a single-family residential zone without discretionary review or a public hearing. This applies to building two new units or adding a second unit to a property with an existing unit.

The following is a summary of the SB 9 requirements, and it is noted whether the requirements apply to urban lot splits, two-unit projects, or both.

Qualifying Criteria – The following criteria is required by the State.

- Each new lot is at least 1,200 square feet [*Urban Lot Split*]
- The split results in two new lots of approximately equal size (60/40 split at most) [*Urban Lot Split*]

- The project does not involve the demolition or alteration of existing affordable housing, rent-controlled housing, housing that was withdrawn from rent within the last 15 years, or housing occupied by a tenant (market-rate or affordable) in the past three years. [*Urban Lot Split + Two-Unit Project*]
- The project does not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three years. [*Two-Unit Project*]
- The lot is zoned single-family residential. [*Urban Lot Split + Two-Unit Project*]
- The lot is not a historic landmark or within a designated historic district. [*Urban Lot Split + Two-Unit Project*]
- The lot is within an urbanized area or urban cluster, or within a city that has an urbanized area or urban cluster, as identified by the U.S. Census Bureau. [*Urban Lot Split + Two-Unit Project*]
- The original lot was not established through a prior SB 9 lot split. [*Urban Lot Split*]
- Neither the owner nor anyone acting in concert with the owner previously subdivided an adjacent parcel through an SB 9 lot split. [*Urban Lot Split + Two-Unit Project*]

Design Standards – The following standards are required by the State.

- Short-Term Rentals Not Allowed. Local agencies must prohibit short-term rentals in a dwelling created under SB 9. (**NOTE:** *Short-term rentals are already prohibited in all zones that are exclusively zoned single-family residential*) [*Urban Lot Split + Two-Unit Project*]
- Residential Only. Local agencies must prohibit non-residential use on the lot(s). [*Urban Lot Split + Two-Unit Project*]
- Objective Only. Under SB 9, local agencies may only impose objective zoning standards, objective subdivision standards, and objective design standards on a eligible project—and even then, only to the extent that the objective standards do not physically preclude the construction of two units on the lot(s) or either of the two units from being at least 800 square feet in floor area. [*Urban Lot Split + Two-Unit Project*]
- Limited Parking. Local agencies may require only one off-street parking space per unit—none if the site is close to qualifying transit or a car share vehicle location. (**NOTE:** *Mammoth Lakes does not have a qualifying transit or car share facility, so can require one off-street parking space per new unit*) [*Urban Lot Split + Two-Unit Project*]
- Four-Foot Side and Rear Setbacks. Side and rear setbacks must be reduced from the standard side and rear setbacks for the underlying zone to the extent necessary to allow the construction of two units on the lot(s) and/or to allow both units to be 800 square feet in floor area. [*Urban Lot Split + Two-Unit Project*]
- Other Structures Permitted. Proposed adjacent or connected structures must be allowed. [*Urban Lot Split + Two-Unit Project*]

- No Dedications of Offsite Improvements. No right-of-way dedications or construction of offsite improvements may be required. [*Urban Lot Split*]
- No Corrections to Nonconformities. Local agencies may not require the correction of existing legal nonconforming zoning conditions (i.e., legally permitted structures that do not comply with current development standards, parking, etc.). [*Urban Lot Split*]
- Three-Year Owner Occupancy. The applicant-owner must sign an affidavit stating that the owner intends to occupy one of the housing units as the owner's principal place of residence for at least three years following the lot split. [*Urban Lot Split*]
- Report to State. Local agencies must include the number of SB 9 lot split applications in annual Housing Element reports. [*Urban Lot Split + Two-Unit Project*]
- Limited Grounds to Deny. A local agency may only deny a qualifying SB 9 lot split if the Building Official finds that the resulting project would have a specific, adverse impact on public health and safety or the physical environment and there is no feasible, satisfactory mitigation. [*Urban Lot Split + Two-Unit Project*]
- Accessory Dwelling Units. SB 9 creates a narrow exception from the general requirement that local agencies allow ADUs and JADUs ministerially on all single-family residential lots, and specifically exempts urban lot split lots from having more than two "units" of any type on the resulting lots. However, this exemption does not apply to lots that aren't split and are developed with a two-unit project. The table above notes the distinctions between split and unsplit lots.

Local Design Standards – The following are standards that have been crafted specific to Mammoth Lakes but can only be imposed to the extent they do not preclude the development of two units on the lot(s) or either of the two units from being 800 square feet in floor area.

- Single Driveway. Access to the resulting lot(s) and/or units shall be from a single driveway entrance/exit and the driveway is limited to a width at the road right-of-way edge of 12 to 24 feet. [*Urban Lot Split + Two-Unit Project*]
- Lot Coverage. The lot coverage for the underlying zone remains the same. [*Urban Lot Split + Two-Unit Project*]
- Height. New units are restricted to height of two stories, not to exceed 24 feet, and second stories are required to step back a minimum of five feet from the ground floor. [*Urban Lot Split + Two-Unit Project*]
- Snow Shed. When a primary dwelling unit is constructed with reduced side or rear yard setbacks, the pitch of any portion of the roof within the reduced setback area shall not be directed towards the side or rear property line(s), or the structure shall have a non-shedding roof material and/or an engineered snowslide restraint device for the life of the structure. [*Urban Lot Split + Two-Unit Project*]
- Architectural Projections. When a primary dwelling unit is constructed with reduced side or rear yard setbacks, no portion of the structure (e.g., eaves, balconies,

covered entries, etc.) shall be located closer than four feet to the side and rear property lines. [*Urban Lot Split + Two-Unit Project*]

**ENVIRONMENTAL CONSIDERATIONS:**

CEQA does not apply to SB 9 project since approval of a project under SB 9 is ministerial. Additionally, the bill creates a new statutory exemption for an ordinance adopted to implement SB 9.

**LEGAL CONSIDERATIONS:**

The urgency ordinance was discussed and reviewed by legal counsel and its contents are consistent with State law.

**Attachments**

Attachment 1 – Ordinance No 2022-\_\_